



Western Australia

Government Railways (Removal and Disposal of Vehicles) By-law 1978

Compare between:

[07 May 2004, 01-a0-08] and [24 Oct 2020, 01-b0-00]



Western Australia

Reprinted under the
Reprints Act 1984 as
at 7 May 2004

Government Railways Act 1904

Government Railways (Removal and Disposal of Vehicles) By-law 1978

[Heading deleted: Gazette 12 Dec 2003 p. 5046.]

1. Citation

- (1) This by-law may be cited as the *Government Railways (Removal and Disposal of Vehicles) By-law 1978*⁺.
- (2) The main legislative units of this by-law are called rules, and a rule may contain 2 or more subrules (this sentence, for example, being subrule (2) of rule 1).

[Rule 1 amended: Gazette 12 Dec 2003 p. 5046.]

~~2. Application~~

~~This by law applies to and in relation to any vehicle left on a railway for a period in excess of 7 days.~~

[\[2. Deleted: SL 2020/207 r. 4.\]](#)

3. Interpretation

In this by-law unless the contrary intentions appears —
appointed place means a place appointed by the Authority under this by-law for the custody of a vehicle removed pursuant to this by-law;

r. 4

authorised person means a person appointed by the Authority to exercise any powers conferred on him by this by-law;

the Act means the *Government Railways Act 1904*.

[Rule 3 amended: Gazette 12 Dec 2003 p. 5046 and 5046-7.]

4. Appointment of authorised persons

The Authority may appoint persons for the ~~purpose of removing into custody any vehicle left on a railway for a period in excess of 7 days~~ purposes of this by-law.

[Rule 4 amended: Gazette 12 Dec 2003 p. 5046-7.]

; SL 2020/207 r. 5. — Use.]

5. Entry and removal of ~~force~~ vehicles

~~An~~ (1) If a vehicle is left on a railway for a period in excess of 7 days, an authorised person may use such force as is necessary to enter ~~at~~ the vehicle for the ~~purpose~~ purposes of removing it and may remove the vehicle to an appointed place.

(2) If an authorised person is of the opinion that a vehicle left on a railway creates a hazard or is unsafe, the authorised person may use such force as is necessary to enter the vehicle for the purposes of removing it and may remove the vehicle to an appointed place.

[Rule 5 inserted: SL 2020/207 r. 6.]

6. Appointment of appointed place

The Authority may appoint any place or places as it thinks convenient in which vehicles removed pursuant to this by-law may be held in custody.

[Rule 6 amended: Gazette 12 Dec 2003 p. 5046-7.]

7. Disposal of uncollected vehicles

Subject to rule 8 where a vehicle is not recovered within a period of 2 months from a place in which it is held pursuant to

rule 6 the Authority may sell or otherwise dispose of the vehicle.

[Rule 7 amended: Gazette 12 Dec 2003 p. 5046 and 5046-7.]

8. Prerequisites of ~~sale~~disposal

- (1) ~~A~~The authority must not sell or otherwise dispose of a vehicle ~~shall not be sold~~ under this by-law unless and until the Authority has caused —
 - (a) enquiries to be made as to the ownership of the vehicle; and
 - (b) the owner of the vehicle to be notified ~~in writing by prepaid registered mail~~by email or post that it is the intention of the Authority to sell or otherwise dispose of the vehicle.
- (2) Where by reason that the whereabouts of the owner are not known or otherwise the owner of a vehicle cannot be notified of the intention of the Authority to sell or otherwise dispose of the vehicle the Authority shall publish in a daily newspaper circulating throughout the State notice of intention to sell or otherwise dispose of the vehicle.

[Rule 8 amended: Gazette 12 Dec 2003 p. 5046-7-~~7~~;
SL 2020/207 r. 7.]

9. Application of proceeds of sale of vehicle

~~Where~~If a vehicle is sold or otherwise disposed of under this by-law the proceeds of a sale (if any) of ~~such a~~the vehicle may be applied by the Authority towards recouping the costs of the removal, custody and ~~sale~~disposal of the vehicle.

[Rule 9 ~~amended: Gazette 12 Dec 2003 p. 5046-7~~inserted:
SL 2020/207 r. 8.]

10. Recovery of costs

- (1) Where the costs of the removal, custody and ~~sale~~[disposal](#) of the vehicle exceed the proceeds of ~~the~~[a](#) sale [\(if any\)](#) of the vehicle the amount of the excess may be recovered by the Authority from the owner in any court of competent jurisdiction.
- (2) Where the proceeds of ~~the~~[a](#) sale [\(if any\)](#) of a vehicle exceed the costs of the removal, custody and ~~sale~~[disposal](#) of the vehicle the amount of such excess shall be paid to the owner of the vehicle, or, where the identity or whereabouts of the owner is unknown, shall be credited to the account referred to in the *Public Transport Authority Act 2003* section 32.

*[Rule 10 amended: Gazette 12 Dec 2003 p. 5046 and 5046-7;
[SL 2020/207 r. 9.](#)]*

11. Charges

The following charges shall be paid by a person who desires to recover a vehicle held in custody under this by-law —

For the removal of the vehicle to an appointed place for custody — ~~\$60 plus~~ [\\$2.60](#) per kilometre.

For custody of a vehicle — ~~\$1~~ [\\$10](#) for each day [or part day](#) of custody.

[Rule 11 amended: [SL 2020/207 r. 10.](#)]

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Notes

¹—This ~~reprint~~ is a compilation ~~as at 7 May 2004~~ of the *Government Railways (Removal and Disposal of Vehicles) By-law 1978* and includes ~~the~~ amendments made by ~~the~~ other written laws ~~referred to in the following table~~. ~~The table also contains~~. [For provisions that have come into operation, and for](#) information about any ~~reprint~~ [reprints, see the compilation table](#).

Compilation table

Citation	Gazetta Publi shed	Commencement
<i>Removal and Disposal of Vehicles By-laws</i> ²¹	21 Jul 1978 p. 2688-9	21 Jul 1978
<i>Government Railways Amendment and Repeal By-laws 2003</i> bl. 6	12 Dec 2003 p. 5041-7	12 Dec 2003
Reprint 1: The Government Railways (Removal and Disposal of Vehicles) By-law 1978 as at 7 May 2004 (includes amendments listed above)		
² Government Railways (Removal and Disposal of Vehicles) Amendment By-law 2020	SL 2020/207 23 Oct 2020	r. 1 and 2: 23 Oct 2020 (see r. 2(a)); By-law other than r. 1 and 2: 24 Oct 2020 (see r. 2(b))

[Other notes](#)

¹ Now known as the *Government Railways (Removal and Disposal of Vehicles) By-law 1978*; citation changed (see note under r. 1).